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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE CHARLES R. BREYER

ROOTS READY MADE GARMENTS CO.  
W.L.L.,

Plaintiff,

VS.

THE GAP, INC., a/k/a GAP, INC.,  
GAP INTERNATIONAL SALES, INC.,  
BANANA REPUBLIC, LLC and OLD NAVY,  
LLC,

Defendants

COPY

NO. C 07-3363 CRB

San Francisco, California  
Friday  
January 25, 2008  
10:00 a.m.

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

**For Plaintiff:**

COVINGTON & BURLING  
One Front Street  
35th Floor  
San Francisco, California 94111

**BY: ROBERT P. HANEY, ESQ.**

**For Defendants:**

Keker & Van Nest  
710 Sansome Street  
San Francisco, California 94111-1704

**BY: DANIEL E. JACKSON, ESQ.  
DARALYN J. DURIE, ESQ.**

**Reported By: Debra L. Pas, CSR 11916, CRR, RMR, RPR**

*Official Reporter - US District Court*

*Computerized Transcription By Eclipse*

*Debra L. Pas, CSR, CRR, RMR, RPR  
Official Reporter - U.S. District Court - San Francisco, California  
(415) 431-1477*

1 the negotiations continued until May 14th, when the payment was  
2 made.

3           **THE COURT:** Okay. So I will ask it again: Are you  
4 going to tell me that between May 13th and May 14th there were  
5 negotiations?

6           **MR. HANEY:** There were continued assurances that led  
7 to the payment of the million dollars, and those were a part of  
8 the negotiations, yes.

9           **THE COURT:** During that time period?

10          **MR. HANEY:** Yes, your Honor.

11          **THE COURT:** By the way, what, like 6:00 o'clock in  
12 the morning or 10:00 o'clock in the evening, or what?

13               I'm going to allow you -- I'm going to give you leave  
14 to amend, but I'm going to require you to be absolutely  
15 specific as to exactly what happened, exactly what happened. I  
16 want conversations. I want who was present. I want time  
17 periods, when it took place. I want you to be absolutely  
18 specific.

19               So it's your view that the oral contract actually  
20 occurred after --

21          **MR. HANEY:** Yes, your Honor.

22          **THE COURT:** -- may 13th?

23          **MR. HANEY:** Yes, your Honor.

24          **THE COURT:** It wasn't just that there were further  
25 assurances?

1           **MR. HANEY:** Your Honor, the contract was formed or  
2 May 13th.

3           **THE COURT:** So I'm going to dismiss it with leave to  
4 amend, and I want you to be absolutely specific putting forward  
5 all the facts that you are relying on to demonstrate that the  
6 contract was formed after May 13th, okay?

7           **MR. JACKSON:** Your Honor, may I make one point?

8           **THE COURT:** Sure.

9           **MR. JACKSON:** The argument that the agreement was --  
10 the oral agreement didn't come into being until after the  
11 written agreement on May 13th is inconsistent with Roots' own  
12 allegations.

13           In the opposition itself Roots said and I quote:

14           "The written agreements implemented the terms of  
15 the oral agreement."

16           I don't understand how that could possibly be, unless  
17 the oral agreement existed before the written agreement came  
18 into being.

19           **THE COURT:** Well, we will see.

20           **MR. JACKSON:** Thank you, your Honor.

21           **THE COURT:** Fasten your seat belt. We are going to  
22 see exactly how it worked. We are going to have all the facts  
23 and we will take a look at them.

24           Count Two.

25           **MR. HANEY:** Shall I take the lead, your Honor, again?

CERTIFICATE OF REPORTER

I, DEBRA L. PAS, Official Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings in C 07-3363 CRB, ROOTS READY MADE GARMENTS CO. versus THE GAP, INC. were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by me at the time of filing.

The validity of the reporter's certification of said transcript may be void upon disassembly and/or removal from the court file.



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Debra L. Pas, CSR 11916, CRR, RMR, RPR

Wednesday, February 20, 2008